

REMARKS

Claims 1-21 are pending in the present application.

Claims 1-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Forsythe et al. (U.S. Patent No. 6,937,996) in view of Hotz (U.S. Patent No. 6,839,681).

On pages 2 and 3 of the Office Action, the Examiner states that he is reinterpreting the Forsythe patent and views it as allegedly disclosing a revenue maximization system. The Examiner states steps 122 and 124 as illustrated in Figure 4 in addition to the cited column 6, line 48-column 7, line 5 of the Forsythe patent illustrate a revenue maximization system as claimed in Applicants' independent claims.

The cited portion of the Forsythe patent discloses a manual operation (e.g., email or fax to a media outlet and then submission of the advertising rate from the media outlet via a rate submission form) that allegedly represents Applicants' revenue maximization system because it allegedly allows the system to "determine a price for said units based on predetermined pricing considerations." It is the Examiner's position that the media outlet inherently attempts to maximize the revenue when submitting a rate/price. "There is simply no other reason a business would submit a price except in an attempt to maximize the revenue" (See Final Office Action, the paragraph extending from page 2 to 3).

Applicants respectfully disagree with this interpretation of the Forsythe patent. The Forsythe patent does not disclose or suggest a revenue maximization system where a price is determined for the units based on predetermined pricing conditions as recited in independent claims 1, 12 and 20. Specifically, it appears to the

undersigned that the pricing is done by humans, and therefore, the Forsythe patent does not involve "a revenue maximization system where a price is determined for the units based on predetermined pricing considerations" (emphasis added).

Applicants claim 3 recites the feature that predetermined pricing considerations include at least three considerations selected from the group consisting of total number of unsold units, category of buyer attempting to purchase the units, the buyer's history in purchasing similar units, and budget of a seller of the units. The Office attempts to identify areas of the Forsythe patent that disclose such predetermined pricing considerations on page 4 of the Office Action. The Office asserts that the category of buyer is a direct advertiser as disclosed at column 1, lines 29-31. However, this citation to the Background section of the Forsythe patent merely describes why direct advertisers generally incur higher unit costs for their advertising space and time than the advertising agencies, which is because direct advertisers lacks an understanding of the price/value considerations.

The Forsythe patent discloses an advertising brokering system. It does not require disclosure of who is requesting advertising. The media outlet simply provides a rate in response to the fax or e-mail request that is not specific to a given ultimate buyer. See column 6, lines 25-26, 42-50 of the Forsythe patent.

As for the predetermined pricing consideration of total number of unsold units, the Office cites column 3, line 7 as disclosing this feature. Again, the citation is to the Background section of the Forsythe patent, and relates to an on-line media service that offers unsold broadcast inventory to media buyers at discount rates. There is no discussion that the media outlet disclosed in the Forsythe patent

considers a total number of unsold units its rate submission as suggested by the Office.

In addition, the Forsythe patent discloses at column 7, line 55 through 60, a schedule that is analyzed to ensure that certain reach and frequency thresholds are achieved. If the reach or frequency is too high, the schedule will be recalculated and the full budget may not be used and if too low, the budget needs to be increased. This seems to indicate that revenue is not maximized and that money will actually be returned to the buyer if certain reach and frequency thresholds are not achieved. The Forsythe patent merely adjusts a budget. It does nothing to maximize revenue, particularly in a manner that "determines a price for said units based on predetermined pricing considerations."

Applicants respectfully submit that the cited portions of Forsythe do not support the Examiner's reasoning for asserting that Forsythe discloses a revenue maximization system.

As for the claimed central information storage system for receiving information from said performance measurement system and revenue maximization system to generate scenarios wherein various combinations of units are grouped together to meet a buyer's criteria wherein said buyer's criteria includes a number of people and frequency people will be exposed to the advertisement units, the Office alleges that this feature is disclosed at column 7, lines 5-35 and 56-57 of the Forsythe patent. However, column 7 discloses that the "system" receives the rate submission page from the media outlet (column 7, line 6) which is entered into media software (column 7, line 17) that is used to generate a schedule based on the rate and the derived parameters. The generated schedules are converted to a simplified format

that indicates to the advertiser the efficiency of the advertising campaign to be provided by the individual media outlet that responded to the rate request. The cited portions of the Forsythe patent do not disclose or suggest scenarios wherein various combinations of units are grouped together to meet a buyer's criteria. The advertiser in the Forsythe patent is only presented with the schedule submitted by the media outlet. The advertiser is not presented with any variation of the advertising units. This is evident from the consistent use of "each schedule" in column 7 (see column 7, lines 24, 26, 30, and 52) when referring to the advertising choices presented to the advertiser. Applicants respectfully submit that the system in the Forsythe patent does not disclose or suggest generating scenarios wherein various combinations of units are grouped together or a scenario planner to display the various scenarios generated by the central information storage system.

As for claims 2 and 4-7, Applicants respectfully submit that the Forsythe patent does not disclose or suggest any of the features recited in the dependent claims. The Examiner at page 4 of the final Office Action suggests that the features recited in the revenue maximization system are disclosed in column 2, lines 17-37 of the Forsythe patent. However, Forsythe does not address the specific features recited in claims 2 or 4-7. Accordingly, Applicants respectfully request that the rejection of claims 2 and 4-7 be withdrawn because the Examiner has not shown where the Forsythe discloses each and every element recited in the claims.

The Hotz patent, as applied at page 3 of the Office Action, is cited as a system and method for the evaluation and measurement of the performance of public relations, advertising and sales events to a particular user. The Hotz patent does not disclose or suggest an inventory management system as recited in

Applicants' claims. Therefore, the Hotz patent does not overcome the deficiencies of the Forsythe patent.

The operation in the Forsythe patent is a broker driven system, wherein the system of Forsythe is the broker. It is not an inventory management system as recited in the claims. The system in Forsythe has no control over the direct advertiser or the media outlets, it merely brings the two parties together and provides some advice.

The Forsythe patent and the Hotz patent, either individually or in combination, do not disclose or suggest all of the features recited in Applicants' claims 1-7.

Applicants request that the Examiner's rejection be overruled.

Independent claims 8 and 11 recite features that are neither disclosed nor contemplating by the Forsythe patent or the Hotz patent.

For example, independent claim 8 recites, among other features, obtaining the history of the buyer with respect to purchases of like units, if any; obtaining available inventory information; and obtaining prices for said units from a revenue maximization system based on at least said history and available inventory. The Forsythe patent does not disclose obtaining the history of the buyer with respect to purchases of like units, if any.

Nor does the Forsythe patent disclose obtaining available inventory information and obtaining prices for said units from a revenue maximization system based on at least said history and available inventory. At best, the system disclosed in the Forsythe patent can only obtain information about inventory based on the narrow request for inventory that a buyer wishes to purchase.

The Examiner argues in response to Applicants' previous argument that obtaining the history of a buyer is recited as an alternative, and therefore is not necessary to find this feature in the prior art to meet this claim. Applicants respectfully disagree. The "if any" refers to the existence of a history, and not an indication that the steps of claim 8 are optional even if there is a buyer history.

The buyers history provides insight into "indications on what the buyer has been willing to pay in the past, promptness of payment, collection problems, and any other factor which tend to indicate the price sensitivity of the buyer and/or the cost of doing business with the buyer" as described at paragraph [0031] of Applicants' specification. The pricing function of the exemplary inventory management system and method uses the buyer history to determine price (see paragraph [0049] of Applicants' specification) because slow paying customers are treated differently than those that pay on time. Claim 8 recites the step of "obtaining prices for said units from a revenue maximization system based on at least said history and available inventory", which is not in the alternative.

As for independent claim 11, the Forsythe and the Hotz patents do not disclose or suggest, either individually or in combination, among other features, setting appropriate filters to filter out media within the selected markets using criteria selected from a group consisting of demographics, psycho graphics and media type. In rejecting claim 11, no citations to the Forsythe patent identifying where appropriate filters are set to filter out media within the selected markets using criteria selected from a group consisting of demographics, psycho graphics and media type have been provided.

Applicants respectfully submit that independent claim 12 recites additional features that are not disclosed or suggested by the Forsythe patent. For instance, Forsythe does not disclose a performance measurement system for measuring performance of a media selected from a group consisting of radio, television, and print, in which units of advertisements are used. The Office Action makes a blanket statement alleging the Hotz patent teaches this feature. However, Hotz in the cited paragraph of column 1, lines 57-66 (see Office Action dated March 14, 2006, page 3 second paragraph) merely discloses data that can be used for setting advertising rates for radio and television, and for tracking consumer behavior with respect to a particular company or product. The Forsythe and Hotz patents, either individually or in combination, do not disclose or suggest the total advertisement inventory of claim 12, particularly with respect to "a central information storage system for receiving information from said performance measurement system and revenue maximization system to generate scenarios wherein various combinations of advertisements units are grouped together to meet a buyer's criteria wherein the buyer's criteria includes a number of people and frequency people will be exposed to the advertisement units; and a scenario planner to display the various scenarios generated by the central information storage system to a prospective buyer of advertising units".

As for claims 13-21, these claims recite additional features that are neither disclosed nor suggested by the Forsythe and Hotz patents, either individually or in combination. For instance, claim 14 recites wherein said predetermined pricing considerations includes at least three considerations selected from the group consisting of total number of unsold advertisement units, category of buyer attempting to purchase said advertisement units, the buyer's history in purchasing

similar advertisement units, and budget of a seller of the advertisement units. Claim 16 recites wherein the revenue maximization system manages yield by using the functions of sell-out forecasting, revenue forecasting, fuzzy rules, and pricing adjustment. Finally, claim 18 recites the revenue maximization system utilizes economic factors which influence demand and various measurement noises are filtered out of these economic factors.

None of the above claimed features, in addition to those in claims 13, 15, 17, and 19-21, have been identified as being disclosed or suggested in either the Forsythe patent or the Hotz patent, either individually or in combination.

Based on at least the above arguments, the Forsythe patent does not disclose or suggest all of the features recited in the independent claims. The Hotz patent does not overcome these deficiencies. The Forsythe patent and the Hotz patent, individually or in combination, do not disclose or suggest all of the features recited in Applicants' independent claims. Applicants request withdrawal of the rejections of claims 1-21.

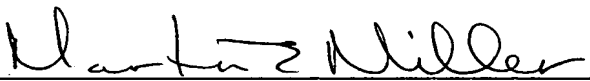
Should any questions arise in connection with this application, or should the Examiner believe a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: February 16, 2007

By:



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